

JAN 18 2013

A BILL FOR AN ACT

RELATING TO AGRICULTURAL BUILDING PERMITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that compliance with
2 existing building codes and permitting processes negatively
3 impacts the State's commercial agriculture and aquaculture
4 industries by adding significant time and costs to farming and
5 ranching enterprises for such fundamental activities as
6 constructing or installing greenhouses, shade houses, storage
7 containers, and many other agricultural and aquacultural
8 buildings and structures, which, by their nature or location,
9 pose little risk to life or property. In contrast to building
10 codes in many other states, county building codes in Hawaii
11 generally do not distinguish between low-risk agricultural
12 structures and residential or commercial buildings. Ultimately,
13 this results in excessive costs for code compliance. Act 114,
14 Session Laws of Hawaii 2012, may help to reduce the cost and
15 time spent applying for building permits for specified
16 nonresidential agricultural and aquacultural buildings and
17 structures and their appurtenances, but Act 114 does not offer
18 relief from county building code requirements.



1 The purpose of this Act is to encourage and support
2 diversified agriculture and agricultural self-sufficiency in the
3 State by providing, under certain circumstances, an exemption
4 from building code and permit requirements for nonresidential
5 buildings or structures on commercial farms and ranches located
6 outside the urban district.

7 SECTION 2. Section 46-88, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[§]~~§46-88~~[§]~~ **Agricultural and aquacultural buildings and**
10 **structures; no building permit required.** (a) Each county shall
11 establish an agricultural buildings and structures exemption
12 list of buildings and structures that are exempt from existing
13 building permit requirements. The list shall be established by
14 each county no later than January 1, 2013. Agricultural
15 buildings, structures, or appurtenances thereto, which are not
16 used as dwelling or lodging units, may be exempted from existing
17 building permit and building code requirements where they are no
18 more than 1,000 square feet in floor area~~[+]~~ or, if greater than
19 1,000 square feet in floor area and compliant with building code
20 requirements or prescriptive construction standards, may be
21 exempted from building permit requirements pursuant to
22 subsection (d); provided that [the]:



1 (1) The aggregate floor area of the exempted agricultural
2 building[, ~~structure, or appurtenance thereto~~] shall
3 not exceed:

4 (A) 5,000 square feet per zoning lot for lots of two
5 acres or less;

6 (B) 8,000 square feet per zoning lot for lots greater
7 than two acres but not more than five acres; and

8 (C) Ten per cent of the acreage per zoning lot for
9 lots greater than five acres; and [the]

10 (2) The minimum horizontal separation between each
11 agricultural building, structure, or appurtenance
12 thereto is fifteen feet[, ~~and the~~];

13 (3) The agricultural buildings, structures, or
14 appurtenances thereto are located on a commercial farm
15 or ranch and are used for general agricultural or
16 aquacultural operations, or for purposes incidental to
17 such operations; [~~provided further that:~~]

18 [~~(1)~~] (4) The agricultural building, structure, or
19 appurtenance thereto is constructed or installed on
20 property that is used primarily for agricultural or
21 aquacultural operations, and is two or more contiguous
22 acres in area or one or more contiguous acres in area



1 if located in a nonresidential agricultural or
2 aquacultural park;

3 ~~[(+2)]~~ (5) Upon completion of construction or installation,
4 the owner or occupier shall provide written notice to
5 the appropriate county fire department and county
6 building permitting agency of the size, type, and
7 locations of the building, structure, or appurtenance
8 thereto. Such written notification shall be provided
9 to the county agencies within thirty days of the
10 completion of the building, structure, or appurtenance
11 thereto. Failure to provide such written notice may
12 void the building permit exemption, which voidance for
13 such failure is subject to the sole discretion of the
14 appropriate county building permitting agency;

15 ~~[(+3)]~~ (6) No electrical power and no plumbing systems shall
16 be connected to the building or structure without
17 first obtaining the appropriate county electrical or
18 plumbing permit, and all such installations shall be
19 installed under the supervision of a licensed
20 electrician or plumber, as appropriate, and inspected
21 and approved by an appropriate county or licensed
22 inspector~~[-and]~~ or, if a county building agency is



1 unable to issue an electrical permit because the
2 building or structure is permit-exempt, an electrical
3 permit shall be issued for an electrical connection to
4 a meter on a pole beyond the permit-exempt structure
5 in accordance with the installation, inspection, and
6 approval requirements in this paragraph;

7 ~~[(4)]~~ (7) Disposal of wastewater from any building or
8 structure constructed or installed pursuant to this
9 section shall comply with chapter 342D~~[+]~~; and

10 (8) Permit-exempt structures shall be exempt from any
11 certificate of occupancy requirements.

12 (b) For purposes of subsection (a), the following
13 buildings ~~[and]~~, structures, and appurtenances thereto shall be
14 included in each county's agricultural ~~[building]~~ buildings and
15 structures exemption list~~[+]~~ and shall be exempt from county
16 building permit and code requirements:

17 (1) Nonresidential manufactured pre-engineered commercial
18 buildings and structures consisting of no more than
19 1,000 square feet ~~[that have no electrical power and~~
20 ~~have no potable water, sewage, or other plumbing~~
21 ~~related services, or have such electrical or plumbing~~



~~related services installed and inspected in accordance~~
~~with subsection (a) (3) and (4)];~~

(2) Single stand alone recycled ocean shipping or cargo
containers that are used as nonresidential commercial
buildings;

(3) Notwithstanding the 1,000 square foot floor area
restriction in subsection (a), agricultural shade
cloth structures, cold frames, or greenhouses not
exceeding 20,000 square feet in area per structure;
provided that where multiple structures are erected,
the minimum horizontal separation between each shade
cloth structure, cold frame, or greenhouse is fifteen
feet;

(4) Aquacultural or aquaponics structures, including
above-ground water storage or production tanks,
troughs, and raceways with a maximum height of six
feet above grade, and in-ground ponds and raceways,
and piping systems for aeration, carbon dioxide, or
fertilizer or crop protection chemical supplies within
agricultural or aquacultural production facilities;



- 1 (5) Livestock watering tanks, water piping and plumbing
2 not connected to a source of potable water, or
3 separated by an air gap from such a source;
- 4 (6) Non-masonry fences not exceeding ten feet in height
5 and masonry fences not exceeding six feet in height;
- 6 (7) One-story masonry or wood-framed buildings or
7 structures with a structural span of less than twenty-
8 five feet and a total square footage of no more than
9 1,000 square feet, including farm buildings used as:
- 10 (A) Barns;
- 11 (B) Greenhouses;
- 12 (C) Farm production buildings including aquaculture
13 hatcheries and plant nurseries;
- 14 (D) Storage buildings for farm equipment or plant or
15 animal supplies or feed; or
- 16 (E) Storage or processing buildings for crops;
17 provided that the height of any stored items
18 shall not collectively exceed twelve feet in
19 height and the storage of any hazardous materials
20 shall comply with any and all applicable
21 statutes, regulations, and codes;



(8) Raised beds containing soil, gravel, cinders, or other growing media or substrates with wood, metal, or masonry walls or supports with a maximum height of four feet; and

(9) Horticultural tables or benches no more than four feet in height supporting potted plants or other crops; provided that the buildings, structures, and appurtenances thereto comply with all applicable state and county ~~codes,~~ ~~including but not limited to applicable building, fire, health,~~ ~~safety, and~~ zoning codes and are properly anchored.

(c) ~~[In the event that]~~ If a county fails to establish the agricultural buildings and structures exemption list within the time period as required under subsection (a), the buildings and structures specified in subsection (b) shall constitute that county's agricultural ~~[building]~~ buildings and structures exemption list.

(d) For purposes of subsection (a), and notwithstanding the 1,000 square foot floor area restriction in subsection (a), the following buildings, structures, and appurtenances thereto shall be exempt from building permit requirements when compliant with relevant building codes or county, national, or international prescriptive construction standards:



1 (1) Nonresidential manufactured pre-engineered and county
2 pre-approved commercial buildings and structures
3 consisting of a total square footage greater than
4 1,000 square feet but no more than 8,000 square feet;
5 and

6 (2) One-story wood-framed or masonry buildings or
7 structures with a structural span of less than twenty-
8 five feet and a total square footage greater than
9 1,000 square feet but no more than 8,000 square feet
10 constructed in accordance with county, national, or
11 international prescriptive construction standards,
12 including buildings used as:

13 (A) Barns;

14 (B) Greenhouses;

15 (C) Farm production buildings, including aquaculture
16 hatcheries and plant nurseries;

17 (D) Storage buildings for farm equipment, plant or
18 animal supplies, or feed; or

19 (E) Storage or processing buildings for crops;
20 provided that the height of any stored items
21 shall not collectively exceed twelve feet in
22 height and the storage of any hazardous materials



1 shall comply with all applicable statutes,
2 regulations, and codes.

3 ~~[(d)]~~ (e) As used in this section:

4 "Agricultural building or aquacultural building" means a
5 nonresidential building or structure located on a commercial
6 farm or ranch constructed or installed to house farm or ranch
7 implements, agricultural or aquacultural feeds or supplies,
8 livestock, poultry, or other agricultural or aquacultural
9 products, used in or necessary for the operation of the farm or
10 ranch, or for the processing and selling of farm or ranch
11 products.

12 "Agricultural operation" means the planting, cultivating,
13 harvesting, processing, or storage of crops, including those
14 planted, cultivated, harvested, and processed for food,
15 ornamental, grazing, feed, or forestry purposes, as well as the
16 feeding, breeding, management, and sale of animals including
17 livestock, poultry, honeybees, and their products.

18 "Appurtenance" means an object or device in, on, or
19 accessory to a building or structure, and which enhances or is
20 essential to the usefulness of the building or structure,
21 including but not limited to work benches, horticultural and
22 floricultural growing benches, aquacultural, aquaponic, and



1 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,
2 when situated within a structure.

3 "Aquacultural operation" means the propagation,
4 cultivation, farming, harvesting, processing, and storage of
5 aquatic plants and animals in controlled or selected
6 environments for research, commercial, or stocking purposes and
7 includes aquaponics or any growing of plants or animals in or
8 with aquaculture effluents.

9 "Manufactured pre-engineered commercial building or
10 structure" means a building or structure whose specifications
11 comply with appropriate county codes, and have been pre-approved
12 by a county or building official.

13 "Nonresidential building or structure" means a building or
14 structure that is used only for agricultural or aquacultural
15 operations, including an agricultural building or aquacultural
16 building, and is not intended for use as, or used as, a
17 dwelling.

18 [~~(e)~~] (f) This section shall not apply to buildings or
19 structures otherwise exempted from building permitting or
20 building code requirements by applicable county ordinance.

21 [~~(f)~~] (g) This section shall not be construed to supersede
22 public or private lease conditions.



1 [~~g~~] (h) This section shall not apply to the construction
2 or installation of any building or structure on land in an urban
3 district."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2013.
7

INTRODUCED BY: Clarence A. Fisk

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Report Title:

Agricultural Building Permits; Exemptions

Description:

Provides, under certain circumstances, an exemption from building code and permit requirements for nonresidential buildings or structures on commercial farms and ranches located outside the urban district.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

